**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.7140 OF 2004**

**Shri Sham Mohanlal Rathi, .. Petitioner.**

**Vs**

**1. Shri Ravindra Vishwanath Baswanti and Ors .. Respondents**

**Mr A.A.Valsangkar with Mr P.J.Das, for the petitioner.**

**CORAM : D.B.BHOSALE,J.**

**DATE : 6th September, 2004.**

**PC**

1. Heard Mr. Valsangkar, learned counsel for the petitioner.

**2** By the order dated 24.3.2004, impugned in the instant petition, the application filed by the petitioner under section 24 of CPC seeking transfer of Regular Civil Suit No.45/1999 filed by the petitioner at Akkalkot to Solapur and tag the same with Spl. Civil Suit No.308 of 2001 filed by respondent nos 1 to 3 in the instant petition, has been rejected. The parties and the property involved in both the suits are same. The leaned District Judge rejected the application filed by the petitioner by order dated 24.3.2004, which reads thus:

"1. Heard Shri Degaonkar, the learned counsel for the applicant. Shri Alange, the learned counsel for the opponent no.4, is absent. Perused the averments made in the application. The applicant has not produced the copies of plaints in regular Civil Suit No.45/1999 and Spl. Civil Suit No.308/2001. The applicant has filed Reg.Civil Suit No.45/1999 for possession and mandatory injunction. While the opponent nos 1 to 3 have filed Spl. Civil Suit No.308/2001 for possession. The averments made in t he application do not disclose the clear description of property in both the suits. The averments are very vague. It is not

clear as to whether the cause of action in both the suits is same. It is also not clear as to whether the subject matter of both the suits is same. In these circumstances, I do not find just ground to transfer Reg. Civil Suit No.45/1999 to the Court of Adhoc Addl. District Judge, Solapur for being heard with Spl. Civil Suit No.308/2001. The application is, therefore, dismissed . The cost is on the applicant."

3. It is clear from the order that the petitioner did not produce copies of the plaints in both the suits inasmuch as the averments in the application filed under section 24 CPC were vague and therefore the learned District Judge could not decide the matter on merits. Considering the order passed by the learned District Judge, in my opinion, the following order shall meet the ends of justice.

(i) Liberty to the petitioner to apply seeking transfer of Regular Civil Suit No.45 of 1999 from Akalkot to Solapur afresh and for being heard with Spl. C.S.No.308/2001 pending at Solapur within three weeks from today.

(ii) The petitioner is directed to furnish copies of the Plaints in both the suits and other material, if any, along with his application for perusal of the learned District Judge to enable him to pass appropriate orders If such application is filed same may be decided by the learned District Judge afresh after giving an opportunity of being heard to all the concerned parties to the suits as expeditiously as possible and preferably within a period of eight weeks from the date of its filing. If the application filed by the petitioner is allowed, the order impugned in the present petition shall render ineffective.

3. With these directions, this petition is disposed of.

**(D.B.BHOSALE, J.)**